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In re Application of :
Smith et al. :
Application No. 10/728,385 :
Filed: December 12, 2003 : ON PETITION
Attorney Docket Number: :
SYN-8311 :

OFFICE OF PETITIONS

This is a decision in response to the Reply to Notice of Incomplete Nonprovisional Application and Petition Under 37 CFR §[S] 1.10 and 1.8(b). The petition is properly treated under 37 CFR 1.53.

The petition is granted.

The application was filed on December 12, 2003. However, on September 10, 2004, the Office of Initial Patent Examination mailed a Notice of Incomplete Nonprovisional Application, noting that the application had NOT been accorded a filing date because the application was deposited without drawings.

In response, Applicant files the instant petition wherein Applicant avers that 40 drawings were originally filed with the application on December 5, 2003, and were received by this Office as evidenced by the return-receipt postcard. In support, Applicant provides a copy of a return receipt postcard acknowledging receipt of, *inter alia*, 40 drawings on December 5, 2003.

A review of the return receipt postcard reveals that Petitioner is correct. The postcard acknowledges receipt of, *inter alia*, 40 drawings on December 5, 2003. Petitioner has also re-submitted 40 sheets of drawings with the instant petition.

Evidence of receipt of any correspondence filed in the Patent and Trademark Office can be obtained by submitting a self-addressed postcard properly itemizing and identifying the paper or papers being filed. Upon receipt of the correspondence, the Patent and Trademark Office will check the listing on the post

card against the papers submitted, making sure that all items listed are present and will then stamp the postcard with an Official date stamp and place the postcard in the outgoing mail. "A postcard receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the PTO of all items listed thereon by the PTO." MPEP § 503.

The copy of 40 drawings, supplied with the instant petition on October 12, 2004, will be used for examination purposes.

A refund of the petition fee has been credited to deposit account 12-1099 as authorized in the instant petition.

The application will be returned to the Office of Initial Patent Examination for further processing as a nonprovisional application with a filing date of December 5, 2003, and an indication that 40 drawings were present on filing, using the 40 pages of drawings filed on October 12, 2004.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.



Derek L. Woods
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Office of Petitions